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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,204	03/01/2002	Avery Li-Chun Wang	1800/3	8574

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EXAMINER

LEROUX, ETIENNE PIERRE

ART UNIT	PAPER NUMBER
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2171

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/087,204

Applicant(s)

WANG ET AL.

Examiner

Etienne P LeRoux

Art Unit

2171

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 0
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/04/2002 0
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Claim Status:

Claims 1-18 are pending. Claims 1-18 are rejected in this first examination on the merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 8, 9, 17 and 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 8 and 17 recite "wherein the media includes a file stored on a memory device of the user's personal computer." The skilled artisan would not know how to make and use the invention because the specification does not provide a clear and concise description of the manner and process of making a media file which is stored in the memory of a user's personal computer.

Claims 9 and 18 are rejected for being dependent from a rejected base claim.

Art Rejection Precluded:

Claims 8, 9, 17 and 18, as noted above, are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. No art rejection is provided in this first action on the merits.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 and 10-16 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat No 6,061,680 issued to Scherf (hereafter Scherf).

Claims 1 and 10:

Scherf discloses:

- extracting a plurality of parameters from a media including a known media sample during a playing of the media by a user [number and length of tracks, col 5, lines 44-55];
- transmitting the plurality of parameters to a predetermined server [Fig 1 server] on a communication network [Fig 1 HTTP connection], which predetermined server is coupled to a recognition database [Fig 1, server database];
- storing the plurality of parameters in the recognition database along with an identity of the known media sample [col 6, lines 21-25];
- processing the plurality of parameters into a plurality of fingerprints/landmarks [unique identifier, col 5, lines 45-55] used in a recognition process.

Claims 2 and 11:

Scherf discloses sending, simultaneously with transmitting the plurality of parameters to the server, metadata [unique identifier, col 5, lines 45-55] used to identify the media sample to a second predetermined server; and forwarding a resulting identification to the server coupled to the recognition database.

Claims 3 and 12:

Scherf discloses returning the resulting identification to the user and then uploading the resulting identification with transmitting of the plurality of parameters [col 6, lines 45-50]

Claims 4 and 13:

Scherf discloses wherein the resulting identification is forwarded directly to the first predetermined server coupled to the recognition database [col 6, lines 33-38].

Claims 5 and 14:

Scherf discloses performing a check prior to extracting the plurality of parameters to determine whether the recognition database currently holds a latest version of the media sample before extracting the plurality of parameters [col 6, lines 11-20].

Claims 6 and 15:

Scherf discloses wherein the media includes a compact disk or digital video disk that is played on the user's personal computer [col 5, lines 44-47].

Claims 7 and 16:

Scherf discloses the media includes a streaming media sample being played on the user's personal computer [col 4, lines 35-38].

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne LeRoux whose telephone number is (703) 305-0620.

The examiner can normally be reached on Monday – Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (703) 308-1436.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Patent related correspondence can be forwarded via the following FAX number (703) 872-9306

Etienne LeRoux

September 27, 2004


SAFET METJAHIC
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100